

STATE OF NEW HAMPSHIRE

PROBATE COURT

PROCEDURE BULLETIN 21

RELATIVE TO: Bank Mergers/Name Changes

This procedure bulletin is prepared for informational purposes in processing case files. It is not intended to provide parties with legal advice.

- I. When a bank serving as trustee changes its name or there is a merger where the successor trustee either through federal law, state law, or by agreement assumes all rights, obligations, and liabilities of the former trustee, the following procedures will apply:
 - A. At the time of the merger or name change, the trustee will file a motion to change name of trustee which includes the circumstances surrounding the merger or name change. The trustee will send a copy of the motion to the bonding company and to all other appropriate parties pursuant to Probate Court Rule 21.
 - B. The trustee will file the following documents with the motion to change name of trustee:
 - 1) Probate Court Rule 21 certification or assents;
 - 2) Surety bond rider changing the name of the fiduciary; and
 - 3) An affidavit by the trustee affirming that all rights, obligations and liabilities of the trustee under the former name will be assumed by the new entity.
 - 4) In the event that the successor bank is an out-of-state bank or entity, a resident agent is also needed.
 - C. No new Certificate of Appointment (Letter of Appointment) will be issued unless it is requested by the trustee, and the cost as indicated in Probate Court Rule 169 is paid in advance.
 - D. No petition for successor trustee, final account, inventory, or filing fee will ordinarily be required.
- II. Whenever a bank by result of merger, acquisition, liquidation, or any other reason, causes the successor trustee to be a different legal entity than the current trustee and there is no assumption of the liabilities of the prior trustee, the following procedures will apply:

- A. At the time the trust account is due, the successor trustee will file a Petition for Successor Trustee. Since the new legal entity would have already been created, the successor trustee will request that the appointment of the trustee be nunc pro tunc to the date of the change.
 - B. The successor trustee will file the following:
 - 1) Petition for Successor Trustee, with Probate Court Rule 21 certification or assents;
 - 2) Resignation of current trustee and any successor trustees that may be named in the Will;
 - 3) Surety bond rider changing the name of the fiduciary;
 - 4) Entry Fee pursuant to Probate Court Rule 169 paid by the trustee (not out of trust assets); and
 - 5) A receipt signed by the successor trustee accepting both the book and market values from the current trustee's final account.
 - C. The current trustee will file its final account in each trust on the anniversary date of the current trustee's appointment. The current trustee will not be relieved of its responsibilities as trustee until the court has approved its final account.
 - D. The successor trustee's first account will be due one year from the date of its appointment and annually thereafter, until such time as the trust will terminate.
- III. When there are issues relating to more than one county and upon request of the bank, the Administrative Judge will review the circumstances of the bank merger or name change and recommend the appropriate procedures for the probate courts to follow.

Last Reviewed: August 1, 2007

_____/s/ David D. King
David D. King
Administrative Judge of Probate Court

History:

Revised August 1, 2007

Effective August 7, 2002